

AMENDED IN SENATE JUNE 26, 2012

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2390**

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**Introduced by Assembly Member Chesbro  
(Coauthors: Assembly Members Huffman and Ma)**

February 24, 2012

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An act to add Chapter 13 (commencing with Section 25990) to Division 15 of the Public Resources Code, *and to add Sections 399.5 and 399.6 to the Public Utilities Code*, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2390, as amended, Chesbro. Electricity: biomass: incentive ~~programs~~: *programs: Electric Program Investment Charge*.

**Existing**

(1) *Existing* law authorizes the Public Utilities Commission (PUC), in consultation with the State Energy Resources Conservation and Development Commission (Energy Commission), to authorize electrical corporations to collect moneys for the self-generation incentive program (SGIP) at 2008 calendar year levels through December 31, 2014. Existing law requires the PUC to require electrical corporations to administer the SGIP, until January 1, 2016. Existing law limits eligibility for SGIP incentives to distributed energy resources that the PUC, in consultation with the State Air Resources Board, determines will achieve reductions in emissions of greenhouse gases pursuant to the California Global Warming Solutions Act of 2006.

This bill would state legislative findings and declarations regarding the use of waste products from forest thinning and fire prevention activities to generate electricity at biomass facilities. The bill would require the Energy Commission, in consultation with the Department of Forestry and Fire Protection, to establish an incentive program to compensate producers and collectors of biomass material associated with forest fuel reduction and fire prevention activities that are delivered to eligible biomass facilities, as defined, for use as a fuel source.

(2) *The Reliable Electric Service Investments Act required the PUC to require the state's 3 largest electrical corporations, until January 1, 2012, to identify a separate electrical rate component, commonly referred to as the "public goods charge," to collect specified amounts to fund energy efficiency, renewable energy, and research, development, and demonstration programs that enhance system reliability and provide in-state benefits. An existing decision of the PUC institutes an Electric Program Investment Charge (EPIC), subject to refund, to fund renewable energy and research, development, and demonstration programs.*

*This bill would require the Energy Commission to expend moneys lawfully collected pursuant to the EPIC charge to provide incentives to the producers and collectors of biomass materials associated with forest fuel reduction and fire prevention activities, if the biomass materials are delivered to an eligible biomass facility, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Prudent forest thinning and fire prevention activities are
- 4 important for protecting public safety.
- 5 (b) The utility of fire prevention activities can be supplemented
- 6 by harnessing the energy potential of waste products in the form
- 7 of woody biomass material from forest fuels reduction activities
- 8 and generating renewable electricity at biomass generation
- 9 facilities.
- 10 (c) Several large fires have resulted in significant costs to
- 11 California investor-owned utilities that affect electric rates. These
- 12 costs include actual cost settlements with homeowners, fire

1 suppression cost reimbursement to the state and federal emergency  
2 service agencies, transmission and distribution equipment  
3 replacement, and ever increasing costs of insuring utility  
4 infrastructure.

5 (d) The Department of Forestry and Fire Protection estimates  
6 that almost 25 million acres of forest are considered high- and  
7 medium-priority landscapes at risk to wildfire.

8 (e) Ratepayers will benefit by reducing the risk and associated  
9 costs of fire related to the electric infrastructure.

10 SEC. 2. Chapter 13 (commencing with Section 25990) is added  
11 to Division 15 of the Public Resources Code, to read:

12  
13 CHAPTER 13. BIOMASS INCENTIVE PROGRAM  
14

15 25990. For the purposes of this section, the following terms  
16 have the following meanings:

17 (a) “Community scale biomass facilities” means an electric  
18 generation facility that uses biomass that has a generation capacity  
19 of under three megawatts and meets both of the following criteria:

20 (1) The facility is located in an area identified by the Department  
21 of Forestry and Fire Protection as high- and medium-priority  
22 landscapes at risk to wildfire.

23 (2) The facility uses as a fuel source only forest biomass  
24 materials, such as shrubs, limbs, and small trees, collected from a  
25 high- or medium-priority landscape considered at risk to wildfire,  
26 as determined by the Department of Forestry and Fire Protection,  
27 pursuant to a project consistent with the California Environmental  
28 Quality Act (Division 13 (commencing with Section 21000) or  
29 the federal National Environmental Policy Act (42 U.S.C. Sec.  
30 4321 et seq.), as applicable.

31 (b) “Eligible biomass facility” means an electric generation  
32 facility that meets both of the following:

33 (1) Uses as a fuel source forest biomass materials, such as  
34 shrubs, limbs, and small trees, collected from a high- or  
35 medium-priority landscape considered at risk to wildfire, as  
36 determined by the Department of Forestry and Fire Protection.

37 (2) Uses best management standards to ensure that biomass fuel  
38 use does not adversely impact water quality, soil productivity,  
39 biodiversity, and wildlife *and is in material compliance with all*  
40 *applicable laws and regulations for forest management on state,*

1 *federal, or private lands that are intended to protect water quality,*  
2 *wildlife habitat, and other public trust resources.*

3 25991. The commission shall, in consultation with the  
4 Department of Forestry and Fire Protection, establish an incentive  
5 program to compensate producers and collectors of biomass  
6 ~~material~~ *materials* associated with forest fuel reduction and fire  
7 prevention activities that are delivered to eligible biomass facilities,  
8 *including community scale biomass facilities*, for use as a fuel  
9 source.

10 25992. In implementing the program, the commission shall  
11 encourage the maximum amount of hazardous forest fuels removal.

12 SEC. 3. *Section 399.5 is added to the Public Utilities Code, to*  
13 *read:*

14 399.5. (a) *Twenty million dollars (\$20,000,000) of any money*  
15 *the commission orders to be collected and transferred to the Energy*  
16 *Commission pursuant to Decision 11-12-035 (Phase 1 Decision*  
17 *Establishing Interim Research, Development and Demonstration*  
18 *and Renewable Program funding Levels, dated December 15,*  
19 *2011) and Decision 12-05-037 (Phase 2 Decision Establishing*  
20 *Purposes and Governance for Electric Program Investment Charge*  
21 *and Establishing Funding Collections for 2013-2020) shall be*  
22 *expended annually by the Energy Commission to provide incentives*  
23 *to the producers and collectors of biomass materials associated*  
24 *with forest fuel reduction and fire prevention activities, if those*  
25 *biomass materials are delivered to an eligible biomass facility, as*  
26 *specified in Chapter 13 (commencing with Section 25990) of*  
27 *Division 15 of the Public Resources Code.*

28 (b) *This section does not authorize the commission to order the*  
29 *collection of moneys pursuant to either Decision 11-12-035 or*  
30 *Decision 12-05-037 or to increase the amount collected through*  
31 *the Electric Program Investment Charge (EPIC).*

32 SEC. 4. *Section 399.6 is added to the Public Utilities Code, to*  
33 *read:*

34 399.6. *The Energy Commission shall only spend funds pursuant*  
35 *to Section 399.5 if funds are lawfully collected pursuant to either*  
36 *Decision 11-12-035 or Decision 12-05-037.*